THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5485 of 2007

20.3.2007

Between:

Vedula Govinda Sarma, S/o.Late Laxminarasimham

… Petitioner

AND

The Special Deputy Tahsildar (Inams), Visakhapatnam
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5485 of 2007

ORDER:

This writ petition is filed assailing the order of the second respondent dated 27.6.2005 in exercise of the powers under Section 7(2) of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion Into Ryotwari) Act, 1956 (Inams Abolition Act, for brevity), whereunder the second respondent confirmed the orders of the first respondent under section 7(1) of the Inams Abolition Act granting ryotwari patta to respondents 3 to 5 herein in respect of the lands comprised in survey Nos.7/4 (part) and 7/4A (part) situated at Narava Village of Pendurthy Mandal in Visakhapatnam District (hereafter referred as, the subject land).

The brief fact of the matter as alleged in the affidavit accompanying the writ petition is as follows. Narava village was taken over by the Government under the provisions of Andhra Pradesh Estate (Abolition and Conversion Into Ryotwari) Act, 1948 (the Act, for brevity). After settlement rates were introduced with effect from 01.7.1960, T.D. Nos.3072, 171 and 1024 in Narasimharayapuram Agraharam village of Narava is taken over by the Government. It is alleged that the said Agraharam is a minor inam granted in 1731 AD by the former Zamindar of Vizianagaram, to late Uddavathi Narasimharayappa, vide T.D.No.3072. Puvvada and Gudala families succeeded to the interest. They sold the land to Nistala family. By that time, Namburi Suryanarayana Panthulu and Vedula Laxmi Narasimham were inamdars. The legal heirs of Namburi Suryanarayana Panthulu sold their share in T.D.No.3072. As the village tenure was not settled neither Namburi family nor Vedula family got ryotwari patta to the inam lands under the Inams Abolition Act, though inams enquiry under Section 3(3) of the Inams Abolition Act

was initiated and Form-II was published in the Gazette dated 05.5.1962. It is also alleged that the extent of Acs.11.94 (out of the total inam land) was already acquired for formation of Raiwada link canal under Award No.44 of 1984 dated 07.11.1984 and the compensation was paid to the petitioner herein. When respondents 3 to 5 herein tried to interfere with the possession of the land covered by survey No.7/4, the petitioner filed land grabbing case being LGC No.140 of 1995 on the file of the Special Court constituted under A.P. Land Grabbing (Prohibition) Act, 1982 (LG Prohibition Act, for short) and ad interim injunction was obtained. The case was transferred to the Court of the District and Sessions Judge, Visakhapatnam and was numbered as LGC No.3 of 1998 in which evidence was recorded in 2004. At that stage, respondents 3 to 5 herein filed an application before the first respondent seeking ryotwari patta for an extent of Acs.30.00. They alleged that their father, Dalinaidu, purchased the property under registered sale deeds dated 10.12.1971 from the legal heirs of Vedula Subba Rao. The petitioner and others opposed the same. The first respondent, namely, Special Deputy Tahsildar (Inams) by order dated 27.6.2005 granted a ryotwari patta. The petitioner filed appeal before the second respondent, who by the impugned order confirmed the order of the first respondent.

Learned Counsel for the petitioner submits that Vedula Subba Rao got only an undivided share to the extent of Acs.14.00 and, therefore, the claim of respondents 3 to 5 for the entire extent of Acs.32.00 of land by reason of the sale deeds dated 10.12.1971 in favour of their father is unsustainable. He would urge that the total extent of Acs.64.00 from out of Acs.208.30 fell to the share of Namburi and Vedula families who got Acs.32.00 each. The petitioner, Vedula Subba Rao, Vedula Narasimha Murthy and others got equal shares and, therefore, Vedula Subba Rao could not have alienated the entire extent of Acs.32.00 in favour of Dalinaidu, father of the respondents 3 to 5. Nextly, he submits that when the LGC is coming up for arguments before the District Court, respondents 3 to 5 are placing reliance on ryotwari patta, and prays to invalidate the same.

Opposing the writ petition, learned Assistant Government Pleader for Revenue (General-A) submits that the writ petition is filed after delay of about two years and, therefore, in the absence of any proper explanation the writ petition is not maintainable. Secondly, he points out that the original authority as well as the appellate authority have considered the matter elaborately with reference to the relevant revenue records and the documents produced by the opposite party and, therefore, all the questions raised by the learned Counsel for the petitioner being the questions of fact, they cannot be gone into. Lastly,

he would submit that though the original and appellate authorities gave number of opportunities to produce documents in proof of their claim, the petitioner herein failed to produce the same and, therefore, in this writ petition these questions cannot be gone into.

At the behest of respondents 3 to 5 the first respondent issued ryotwari patta on 30.9.2004. As seen from the order of the first respondent the application under Section 7 of the Inams Abolition Act was filed some time in 2003. By that time the petitioner and others had already filed LGC. They did not move this Court or any other Forum after receiving notices from the first respondent regarding the inam enquiry under Section 7(1) of the Inams Abolition Act. After first respondent passed elaborate orders on 30.9.2004, the petitioner preferred appeal under Section 7(2) of the Inams Abolition Act before the second respondent in 2004. *Inter alia* they urged that due to pendency of the LGC the first respondent ought to have deferred the inam enquiry. Other important grounds were also urged. In spite of the same as seen from the orders of the respondents 1 and 2, the petitioner did not evince any interest. Therefore both the respondents passed orders after examining the evidence placed by respondents 3 to 5. The petitioner lost the appeal by reason of the impugned order. They did not immediately approach this Court or the Commissioner of Survey and Settlements by way of revision under Section 14A of the Inams Abolition Act. After lapse of about two years, they filed the present writ petition. In paragraph 12 of the affidavit accompanying the writ petition an attempt is made to explain the reason for filing the writ petition with the delay. The reason is not at all convincing. Secondly, before appellate authority, the matter was adjourned to enable the petitioner's counsel to file documents in support of the claim. Except informing about the pendency of LGC no documentary evidence was produced on the ground that the original documents were filed before the District Court in LGC. Nothing prevented the petitioners to obtain certified copies and produce the same before the appellate authority.

The various grounds urged by the learned Counsel for the petitioner mainly revolve around questions of fact based on the claim petition of the respondents. This Court, therefore, does not find any infirmity in the order passed by the second respondent. However, if so advised, the petitioner may approach the revisional authority under Section 14A of the Inams Abolition Act in which event this Court observes that the matter shall be proceeded with in accordance with law without being influenced by any of the observations made herein above.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO,J**)

March 20, 2007.
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